



U.S. Department of Justice

Andrew E. Lelling
United States Attorney
District of Massachusetts

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March 16, 2018

Via First Class Mail

David Solet
General Counsel
Executive Office of Public Safety and Security
One Ashburton Place
Boston, MA 02108

Jesse Caplan
General Counsel
Executive Office of Health and Human Services
One Ashburton Place
Boston, MA 02108



Re: Investigation of the Massachusetts Department of Correction Pursuant to the Americans with Disabilities Act

Dear Attorneys Solet and Caplan:

We are writing to inform you that the U.S. Attorney's Office for the District of Massachusetts has initiated an investigation of the Massachusetts Department of Correction (DOC) for compliance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12165, and its implementing regulations, 28 C.F.R. part 35. These ADA regulations may be found at www.ADA.gov.

Specifically, this investigation focuses on the provision of services for individuals with Opioid Use Disorder (OUD) whose disability, prior to confinement, has been identified as requiring Medication-Assisted Treatment (MAT). Individuals in treatment for OUD are protected by the ADA. It has come to our attention that individuals in treatment for OUD entering DOC facilities, who are being treated with MAT, are not allowed access to MAT while in the DOC's custody.¹ We understand that there is proposed legislation to phase-in a pilot program in the DOC over the next four years that will allow inmates with OUD being treated

¹ We understand that pregnant women with OUD are provided MAT while at MCI-Framingham as long they are pregnant, but that these women are taken off of MAT once they are no longer pregnant.

with MAT to have access to MAT while in DOC facilities. We further understand that these proposals are limited to inmates, and not to detainees civilly committed under Section 35, or to pre-trial detainees. Regardless of this proposed legislation, we reiterate that all individuals in treatment for OUD, regardless of whether they are inmates or detainees, are already protected by the ADA, and that the DOC has existing obligations to accommodate this disability.

It is important to note that, although we believe it is appropriate to begin an investigation in light of the above-referenced information, we have not reached any conclusions about whether the ADA has been violated. We also note that, as we commence our investigation, we intend to consider all relevant information, and we invite your full cooperation in identifying that information. We will seek to minimize any potential disruptions of normal DOC operations during our investigation.

We look forward to discussing with you the next steps that are involved in proceeding with our inquiry. The attorneys handling this investigation are Civil Rights Unit Chief Jennifer Serafyn (617-748-3188) and Special Assistant U.S. Attorney Gregory Dorchak (617-748-3157) from the U.S. Attorney's Office for the District of Massachusetts. We will contact you shortly to discuss the parameters of the investigation, but please do not hesitate to contact us if you have any questions in the interim.

Sincerely,

Andrew E. Lelling
United States Attorney

By:

/s/ Gregory J. Dorchak
Jennifer A. Serafyn
Chief
Gregory J. Dorchak
Special Assistant U.S. Attorney
Civil Rights Unit